

**Joint Oversight Hearing  
Assembly Health & Aging Long-Term Care Committee  
The Covid-19 Outbreak in Skilled Nursing Facilities and the State's Response  
June 9, 2020**

**Testimony of Patricia McGinnis, Executive Director  
California Advocates for Nursing Home Reform**

Chairman Wood and Chairman Nazarian, and members, thank you for the opportunity to testify at this important hearing.

My name is Pat McGinnis, and I'm the Executive Director of California Advocates for Nursing Home Reform, and not-for-profit advocacy organization based in San Francisco and serving long term care consumers in California. For many years, we have advocated for adequate staffing in nursing homes, better care for residents, better oversight by the Department of Public Health, and protection of residents from neglect and abuse.

I have previously forwarded some materials to the committee consultant which included our Emergency Action Plan with steps that could and should have been taken to prevent the spread of the virus in nursing homes – which we first sent to the Department in early April. I also forwarded copies of our 10-point plan to reform nursing homes in California, and our concerns regarding reauthorization of the nursing home Medi-Cal reimbursement scheme without sufficient accountability. We have also established a special COVID website for consumers and advocates at <https://canhrnews.com>

From the beginning of the declaration of a state of emergency due to the COVID-19 pandemic, we were well aware that nursing homes would be the perfect incubators for the virus and that, if nothing was done, many residents and staff would become infected and would die. Now, nearly 2,000+ nursing home residents have died from COVID-19 in the past 3 months – almost 50% of the total number of coronavirus deaths in California. Thousands more residents are infected along with thousands of nursing home staff. 55 nursing home staff have died so far – but given the unreliability of the reporting, it's likely higher than that. Many more nursing home residents are likely to die and the numbers of those infected are going to continue to grow.

There is no doubt that many of these deaths and infections were preventable, and that they are a direct result of the poor policies and the inadequate oversight of the Agencies appointed to protect nursing home residents in California. And, of course, a direct result of the indifference and neglect of too many of California's nursing homes.

The majority of California's nursing homes were understaffed even prior to this pandemic. The Department of Public Health had granted staffing waivers to hundreds of nursing homes so those facilities didn't even have to meet the very minimal staffing requirements.

It is no surprise then that the nursing homes with the worst records of care and with previous infection control deficiencies had the highest number of deaths and outbreaks.

Many facilities – over 50% - had deficiencies in infection control and prevention within the past two years.

Most facilities didn't have full time infection control specialists - if they had them at all— and failed to train staff on infection control and prevention.

Few facilities had sufficient personal protective equipment – in fact, staff were told to show up to work or risk getting fired.

There was no testing at all in the first couple of months, and even now, three+ months into this crisis – testing is sporadic and inconsistent.

One of the first (of many contradictory) All Facilities Letter put out by DPH banned all visitors from nursing homes – no family members, no clergy, no long-term care ombudsmen and no nurse evaluators – who were told they could “evaluate” remotely. Yet there were no limits placed on nursing staff – who often worked two jobs just to make a living wage.

Another early All Facilities Letter told nursing homes that they must accept COVID-positive patients from acute care hospitals – no, they couldn't request that the patient be tested or screened – but they had to be prepared – isolate infected residents, have sufficient PPE, have sufficient trained staff. Knowing full well that the majority of nursing homes were understaffed, had no personal protective equipment, no testing was available, and patients were already roomed 2-3 to a room in many facilities, making isolation impossible and creating a breeding ground for the disease.

On March 20, 2020, [CMS ordered state survey agencies](#) to suspend almost all types of nursing home surveys and directed them to temporarily institute a new system of targeted infection control surveys aimed at “ensuring providers are implementing actions to protect the health and safety of individuals to respond to the COVID-19 pandemic.”

One of the targeted infection control surveys took place in early April at Magnolia Rehabilitation & Nursing Center in Riverside and received a clean survey with no infection control deficiencies cited. A few days later, (84) [all of its residents were evacuated due to a massive outbreak and an extreme staffing crisis](#). Yet [a CDPH COVID-19 infection control survey report dated April 7](#) gave Magnolia a clean bill of health. 49 patients and 29 staff were infected and a number of patients died.

Hundreds of surveys with no citations because the surveyors were instructed not to cite facilities, but to collaborate with the facilities. Meanwhile, thousands of nursing home resident suffered and died alone.

A simple lesson that everyone learns as a child is to stop rewarding bad behavior. Yet, we continue to reward - not just bad behavior - but substandard care and death.

A full 20 facilities in Los Angeles – some with the worst records of care in California, and many where multiple residents have died of COVID and/or become infected – are now “Covid Designated Facilities” meaning they can now receive \$600-\$850 per day per COVID patient.

For example, the County reports that 26 residents at Grand Park Convalescent Hospital died of COVID-19 related causes and nearly 100 residents and staff were infected. They are now a “COVID-designated” nursing home and can reap the benefits of infecting their residents and staff. Hollywood Premier Healthcare Center, another of the dedicated COVID-19 SNFs, where 19 residents have reportedly died from COVID-19 causes and over 90 residents and staff were infected, announced on its website that it was pursuing an “alternative business” model by becoming a COVID designated facility

The Governor’s Budget Proposal intends to reward the nursing home industry once again with billions more in Medi-Cal dollars with no assurance that any of the funds will go to improve staff wages, staff ratios, infection control or quality care.

What has happened in California’s nursing homes is a tragedy and avoidable, if our government agencies had the courage to be a consumer protection agency instead of a provider protection agency.

Meanwhile, family members are prohibited from visiting their mothers and fathers, sons and daughters, and brothers and sisters. Nursing home residents remain without any rights, with no visitors and no one to ensure their safety. While beauty shops, bars and barbershops open, nursing home residents are denied even one designated visitor. We have condemned them to become infected and to die alone.

This has to change:

- Keep residents out of nursing homes – fund real home and community-based alternatives
- Ban shared rooms
- Set safe Staffing standards with no waivers
- Require more RN staff
- Strict emergency preparedness requirements
- Ban on new admissions where violations are found
- Get rid of unfit operators and ban self-dealing that enrich them
- Strengthen opportunities for residents to pursue justice

See CANHR’s Nursing Home Reform Plan